



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

COPY MAILED

MAR 07 2003

OFFICE OF PETITIONS

Steven L. Oberholtzer
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Application of
Brown
Application No. 10/025,585
Filed: December 18, 2001
Atty. Dkt. No.: 10541-595
For: ELECTRIC CONTROL FOR
AUTOMOBILE HEADLIGHTS

:
:
: DECISION DISMISSING
: PETITION UNDER 37 CFR
: 1.47(b)
:
:

This is in response to the petition under 37 CFR 1.47(b), filed February 20, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 18, 2001 without an executed oath or declaration and naming Heather Steiner Brown as sole inventor. The instant petition under 37 CFR 1.47(b) was filed February 20, 2003. This decision precedes mailing of Notice of Missing Parts of Nonprovisional Application. The required surcharge for late submission of executed oath or declaration has been charged to Deposit Account No. 06-1500 as authorized in the instant petition.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirement (1) and (5).

As to item (1) set forth above, the petition lacks sufficient evidence that the nonsigning inventor cannot be reached. The declaration of Sujatha Subramaniam details attempts to locate the non-signing inventor through internet searches. The declaration further indicates that packages sent to the addresses that

resulted from the searches were returned as undeliverable.

Where inability to locate a nonsigning inventor is alleged, diligent efforts of attempts to locate the nonsigning inventor must be made. Details regarding attempts to locate the nonsigning inventor should be submitted in the form of a declaration or affidavit.

While petitioner has demonstrated that some effort to locate the inventor has been made, petitioner should note that a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates the more current address of the nonsigning inventor to be as follows: 897 Westchester Way, Birmingham, MI 48009-2917.

As to item (5), petitioner has presented no corroborative evidence of proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

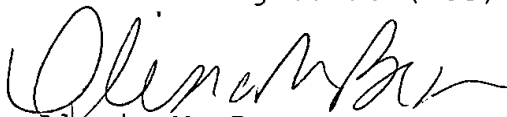
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.



Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy